19

G. R. 72

Department of [illegible]

OFFICE [illegible]

STATION [illegible]

No. 2842	
	2842
Dated 24-12-20	

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(SUBJECT.)

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* Not to be filled in the case of permanent records.

appeal

'2 19 C.F. 31.

Land Revenue **DEPARTMENT.**

Received _____ 192 . *Registered* _____ 192

Subject.

Suit:-- Udipi District Munsiff's Court--O. S. 1922-544.

ENCLOSURES.
No. _____
Spare copies _____

Ref. on V. --3 -- No. 4047--22.

Station Mangalore , *dated the* 18th December 1923. 19

From (Name) G. W. Wells, Esq., M.A., I.C.S.,

(Designation) Collector of South Kanara.

To The Secretary to the Board,

Land Revenue, M a d r a s.

Sir,

(O) The above suit which was filed by Government -- against Muddanna Shetty with the sanction of the - Board conveyed in B. P. No. 150 His. dated 8th February 1922 was decreed in favour of Government on 21. 9. '23 subject to the following reservations:--

(N) (1) Whereas the Government valued rice due in -- each year at the gazette rates and deducted the assessments paid by the Defendant each year , the District Munsiff calculates the total quantity of rice due -- at the date of the plaint with the holi (interest) thereon at 25 p.c. and then values it at the rate --- prevailing in the village that year and allows a -- a set off to the Defendant of the assessment paid by

him with interest at 25 per cent.

(ii) The District Munsiff values the rice due at the date of the plaint at the rate obtaining then in the village in - which the property is situated, instead of valuing the rice at the gazette rates notified for the various years for which rent has been claimed in the plaint.

2. As regards the interest of 25% allowed to the Defendant on the assessment paid by him, the District Munsiff is wrong in saying that the Plaintiff calculated holi only on the balance -- remaining after allowing the Defendant deduction for the assessment paid by him. Still, the Government Pleader, Mangalore says that when deduction for assessment is agreed to be made, interest will be decreed by the Court on the amounts so paid for assessment by the Defendant, and that in the circumstances of the case it cannot be said that the Court is wrong in decreeing the same rate of interest as is allowed to Government by way of holi or penal interest. With reference to the other point, i.e. the -- price of rice, the Government Pleader considers that Rs.6/- per mura allowed by the Munsiff appears to be fair in view of the evidence adduced on behalf of Government.

3. On the whole the Government Pleader is of opinion that -- there are no good grounds to prefer an appeal. He, however, suggests filing of a memo of objections, in case the Defendant -- appeals. — I agree with him. p3 Ck

4. I enclose a draft appeal memo for the Board's approval, should it decide on an appeal. The appeal has to be filed on -- '3. 1. '24 as the appeal time expires on 25. 12. '23 in the midst of the ~~Xmas~~ Christmas holidays.

5. Copies of judgment and decree are enclosed. (N)

Your obedient servant,

Collector.

18/12/23

In the Court of the District Judge of South Kanara.

Appeal Suit No. of 1923.

Between :-

The Secretary of State for India in Council represented by the Collector of South Kanara. | Appellant.

Versus.

Muddanna Shetty alias Mudara Shetty Respondent.

Appeal under Order 41 Rule 1 of Civil Procedure Code.

On appeal from the decision of the District Munsiff of Udipi dated 21. 9. '23 and made in

Original Suit No. 544 of 1922.

Between:--

The Secretary of State for India in Council. | Plaintiff.

and

Muddanna Shetty alias Mudara Shetty. Defendant.

The appellant abovenamed begs to present this appeal -- against the decree and judgment of the District Munsiff of Udipi in the above suit on the following among other grounds.

1. The appellant is the Secretary of State for India in Council, represented by the Collector of South Kanara, which is the address for service of all notices and processes.

2. The Respondent Muddanna Shetty alias Mudara Shetty -- grand nephew of Pilar Santur Ramaya Shetty and son of Majur Ummaya Shetty residing in Majur village Udipi Taluk.

Grounds of appeal.

3. The decree of the Lower Court, in so far as it is against appellant, is wrong and inequitable and against the evidence in the case.

4. In calculating the rent payable by the Defendant to the Plaintiff, the Lower Court is wrong in allowing interest at -- 25 per cent on the amount claimed by the Defendant for payment of assessment.

5. The Munsiff has erred in holding that holi was claimed by appellant only on the balance of rent after the deduction of the assessment paid by the Defendant.

6.

6. The Munsiff should have allowed the full price of rice at the rates claimed in the plaint, which are the rates given in the District Gazette.

7. The Munsiff should have decreed the full amount as -- claimed in the plaint.

Value of claim.

Mangalore,
18th December '23.

Collector. 18/12/23.

C.F. 20—1,201,481—17-12-21.

DRAFT FOR APPROVAL.

Enclosures.

Despatch No.

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Register No. A 5611/20, dated 6

From

Subject. Suits (S. Kanara) Major - Deceased Udupi Taluq Kemmaru Judicial Dy. no 524/22 - Sheety - Escheated property. Recovery of arrear of rent. Order re appeal

To

THE

Rep. No. 2842

24-12-21

The Board agrees with the Collector in considering that no appeal is necessary. If however the defendant appeals, the memo of Govt objections (submitted by the Coll) should be replied on behalf of Govt

22/12

22/12

21.12.21

21.12.21

To The Collr S Kanara

with decree Judgt returned

Note Inness of the local GP's opinion by Govt No appeal seems necessary The